

**DEPARTMENT OF ENVIRONMENTAL QUALITY
ENFORCEMENT DIVISION**

**FISCAL YEAR 2004 ENFORCEMENT STATUS REPORT
JULY 1, 2003 through JUNE 30, 2004**

The Enforcement Division (ENFD) is responsible for the implementation, coordination and tracking of Department of Environmental Quality (DEQ) enforcement activities, and for the investigation and response to spills and citizen complaints that allege impacts to human health and the environment. The Enforcement Division consists of the Complaint Management Section and the Case Management Bureau.

I. Complaint Management Statistics

Total number of complaint and spill reports received during the report period was 908.

In an effort to delineate areas of regulatory responsibility for complaints received by the Department, a complaint type is assigned that generally relates to program authority. The Complaint Management Section is responsible for the initial investigation of all complaints to determine their validity and to ensure proper follow-up occurs (if needed). Spills being recorded are typically associated with unauthorized material releases resulting from vehicle accidents, mechanical malfunctions, or human error.

Number of Complaint / Spill Reports by Type (DEQ Program or Environmental Media) & General Group				
Air Quality - Dust	58	Spills (not impacting water)	17.6%	160
Air Quality - Emissions	82	Clandestine Drug Lab		24
Air Quality - Odors	4	Solid Waste		87
Air Quality - Open Burning	41	Junk Vehicles		28
Asbestos	50	Septic Pumpers		14
Indoor Air Quality	1	Sewage		17
Total Air Quality Related	26.0%	236	Septage From Drain Fields Etc	0
Water Quality	78	Hazardous Waste		21
Spills (impacting water)	34	Used Oil		25
318 Permit	19	Pesticides		8
Watershed Management (TMDL)	1	Municipal Waste Water Treatment Systems		13
Release of Chemicals from Tanks *	0	Superfund		4
Release of Chemicals from Pipelines	15	Total Waste Related	26.5%	241
Suspect Hydrocarbon Release	0	Abandoned Mines		1
Underground Storage Tank Regulation	27	Strip and Underground Mining		1
Subdivisions	8	Opencut Gravel Mining		20
Animal Feedlot Operation	6	Metal Mines		5
Concentrated Animal Feedlot Operations	4	Total Mining Related	3.0%	27
Surface Water (MPDES) Permits	19	Major Facility Siting Act (MFSA)	0.0%	0
Ground Water (MGWPCS) Permits	2	Other (Outside DEQ Authority)	1.4%	13
Public Water Supply Systems	18			
Nonpoint Source	0			
Total Water Related	25.4%	231	TOTAL FOR ALL COMPLAINTS	908

* Note that these are releases reported through ENFD. The Hazardous Waste Site Cleanup Bureau received 66 leak reports directly during this time.

Status of complaint and spill reports received during reporting period:

Complaint reports are sent to the ENFD for initial investigation and database entry. Referral occurs when the determination is made that the complaint falls under a specific regulatory authority either within DEQ or an outside agency.

Status of Complaint Spill Reports *	
Active (under investigation by ENFD)	129
Active Referred (to other DEQ program for investigation and follow-up)	56
Active Enforcement Case (complaint that led to a request for enforcement action)	9
Closed (resolved by ENFD)	362
Closed by Program (resolved by other DEQ program)	156
Closed No Violation (ENFD investigation determined no violation occurred)	84
Closed Referred (referred to outside Agency for resolution)	95
Closed Not Enough Information (not enough information was provided or documented to validate)	17
	908

* Status as of 6/30/04. Please note that the status of complaints and spills can change on a daily basis as work progresses.

II. Case Management Statistics

The following tables provide various statistics concerning enforcement actions taken by the Department of Environmental Quality from July 1, 2003 through June 30, 2004.

Enforcement Actions Processed by Statute										
Statute	Enforcement Requests			Status of Enforcement Requests						
	Total Caseload	Cases continuing FY03	Actions requested FY04	Case Development	In Litigation*	Under Order	Referred Cases	Vacated, Stayed or Suspended	Withdrawn	Closed
Asbestos Control Act	9	6	3	0	3	4	0	0	0	2
Clean Air Act of Montana	20	9	11	3	1	7	0	0	0	9
Metal Mine Reclamation Act	5	5	0	0	0	3	0	0	0	2
Montana Hazardous Waste Act	11	10	1	1	1	5	0	1	0	3
Montana Solid Waste Management Act	14	13	1	0	5	7	0	0	1	1
Montana Underground Storage Tank Act	76	65	11	5	13	18	0	0	1	39
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	1	1	0	0	0	1	0	0	0	0
Motor Vehicle Recycling & Disposal Laws	10	9	1	2	0	8	0	0	0	0
Opencut Mining Act	16	12	4	3	2	6	0	0	0	5
Public Water Supply Laws	102	50	52	6	4	51	1	2	16	22
Sanitation in Subdivision Laws	8	6	2	0	1	6	0	1	0	0
Septic Disposal and Licensure Laws	2	2	0	0	0	1	0	0	0	1
Strip and Underground Mine Reclamation Act	16	7	9	1	0	6	0	1	0	8
Water Quality Act	44	18	26	8	4	21	0	2	1	8
TOTAL	334	213	121	29	34	144	1	7	19	100

Case status explanations

Case Development: Case is being developed in the Enforcement Division and/or Legal Unit. Activities include: 1) preparation and review of files and evidence; 2) preparation of administrative and judicial enforcement documents; and 3) preparation of penalty calculations.

In Litigation: Defendant and the Department are engaged in pre-complaint settlement negotiations; e.g., a demand letter has been sent to the defendant, the defendant has been requested to stipulate to a draft administrative order, etc.

*Includes active and pending judicial cases and administrative appeals.

Under Order: Violator is subject to a legally-enforceable administrative or judicial order.

Referred Case: Case referred to another agency for case management.

Vacated: Case was vacated, either by mutual agreement or by the court, and is closed.

Stayed: Case in which the Department refrains from enforcing an administrative order against a violator.

Suspended: Case that is discontinued temporarily or permanently, but is not closed.

Withdrawn: Enforcement Request was withdrawn before case development began.

Closed Enforcement Case: Case is closed. The defendant has satisfied the terms of the settlement agreement or order.

Analysis of Enforcement Actions by Enforcement Action Type					
Statute	2004 Case Load	Enforcement Action Type			
		Admin.	Civil	Criminal	Referred
Asbestos Control Act	9	6	3	0	0
Clean Air Act of Montana	20	13	7	0	0
Metal Mine Reclamation Laws	5	2	3	0	0
Montana Hazardous Waste Act	11	5	6	0	0
Montana Solid Waste Management Act	14	7	7	0	0
Montana Underground Storage Tank Act	76	59	17	0	0
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	1	0	1	0	0
Motor Vehicle Recycling and Disposal Laws	10	2	8	0	1
Opencut Mining Act	16	12	4	0	0
Public Water Supply Laws	102	86	14	0	2
Sanitation in Subdivision Laws	8	7	1	0	0
Septic Disposal and Licensure Laws	2	1	1	0	0
Strip and Underground Mine Reclamation Act	16	16	0	0	0
Water Quality Act	44	40	4	0	0
TOTAL	334	256	76	0	3

Penalties Statistics (in dollars)							
Statute	Orders w/ Penalties FY2004	Monetary Settlement Penalties		Monetary Penalties Collected		Penalties Suspended	Suppl. Env. Project
		Admin.	Civil	Admin.	Civil		
Asbestos Control Act	3	\$88,684		\$82,452			\$11,000
Clean Air Act of Montana	11	\$227,112	\$283,855	\$232,487	\$85,938	\$6,600	
Metal Mine Reclamation Laws	0			\$425			
Montana Hazardous Waste Act	4	\$32,000	\$38,500	\$32,000	\$38,500		\$15,125
Montana Solid Waste Management Act	2	\$6,500	\$1,545		\$1,545		
Montana Underground Storage Tank Act	38	\$59,179		\$58,193		\$27,329	
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	0						
Motor Vehicle Recycling and Disposal Laws	0						
Opencut Mining Act	2	\$2,528		\$7,528			
Public Water Supply Laws	13	\$6,710	\$3,000	\$6,932	\$3,250	\$519	
Sanitation in Subdivision Laws	1	\$5,000			\$5,000		
Septic Disposal and Licenaure Laws	1	\$2,450		\$2,450		\$4,697	
Strip and Underground Mine Reclamation Act	8	\$4,360		\$4,360			
Water Quality Act	5	\$270,713		\$146,882	\$2,500		
Subtotal*		\$705,236	\$326,900	\$573,709	\$136,733		
TOTAL	88	\$1,032,136		\$710,442		\$39,145	\$26,125

* The amount of Penalties Collected does not equal the Settlement Penalties because: 1) penalties were not due before the end of FY2004; 2) penalties are being paid under a payment schedule; 3) portions of penalties have been suspended; 4) the violator has failed to pay the penalty; 5) the violator has appealed the penalty order; or 6) the violator is or may be insolvent. In instances where the violator has not paid a penalty that is owed, the Department is actively pursuing collection.